

2011 General Session
Activity Through June 24, 2011
Excerpt: Legislation affecting the beginning of the school year, 2011-2012

Health & Safety

Amend Law Re: School Discipline

SL 2011-282

HB 736

Repeals: 115C-390 and -391 and adds sections 115C-390.1-390.12 and conforming changes to 115C-391.1, -12(27), -45(c), 238.29B(b)(11), 238.29F(g)(7), -276(r), -299(e), -366, -402(b), -208.19(f), and 20-11(n1)d.2.

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required: Provide corporal punishment opt-out form; local board policies likely will have to be rewritten to reflect changes in the laws; report to State Board on use of corporal punishment.

SBE action required: Incorporate corporal punishment data in student discipline reports.

Summary: This is an extensive revision of student discipline laws. It was drafted in advance of the session by groups representing the interests of parents/students, teachers, school administrators, and local boards of education. As a consensus bill, it gained bipartisan support and the conference report was adopted 47-0 in the Senate and 112-1 in the House. The following are some of the major changes:

- Parents may elect out of the use of corporal punishment by returning a form provided at the beginning of the school year or when the student first begins to attend that year (115C-390.4)
- Local boards must annually report to the State Board of Education on the use of corporal punishment (see details in 115C-290.4(c))
- Local board policy may not allow for suspension of student for more than two days solely for truancy or tardiness offenses (115C-390.2)
- Local board policies can not be zero tolerance for long-term suspensions: they must allow the principal and superintendent to consider issues such as the student's intent and disciplinary and academic history (see 115C-390.2(g) for full list)
- Local board policies can only provide for long-term suspension or expulsion if the conduct meets the standard set in the law: threatens the safety of students, staff, or school visitors or threatens to substantially disrupt the educational environment (See 115C-390.2 for list of examples)
- Allows continuation of a long-term suspension through the first semester of the following school year for offenses that occurred in the last quarter of the year (115C-390.1(b)(6))
- Eliminates 365-days suspensions except as required by federal law for gun possession.
- Revises process for requests for re-entry after expulsion and makes the same process available for 365-days suspensions.

Modify Law Re: Corporal Punishment

SL 2011-270

SB 498

Amends: 115C-391(a)(5) (Same provision is in comprehensive legislation, HB 736/SL 2011-282)

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required: Provide form at the beginning of school year or when student first enters to allow parents to make the election not to allow corporal punishment

SBE action required: None (Requirements related to corporal punishment are included in HB736)

Summary: This legislation modifies the law regarding corporal punishment. This gives parents the option to opt out of allowing corporal punishment. The North Carolina School Boards Association opposes banning corporal punishment: this legislation provided a compromise in positions expressed by interest groups as well as legislators. School districts will need to develop a form that parents can sign to opt out of corporal punishment. The form must alert parents that for the same behavior, suspension could be required.

Clarify Process/Reportable Offenses in School

SL 2011-248

SB 394

Amends: 115C-288(g)

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required: removes requirements

SBE action required: State Board Policy HRS-A-000 must be modified to not require any additional reporting to law enforcement.

Summary: This bill was sought by school administrators and others to address concerns regarding implementation of state law and State Board policy on reportable offenses. It limits the kinds of crimes that must be reported by principals to those listed in the statute, which are all serious crimes, such as rape or assault resulting in serious injury. The State Board's policy had required that any criminal offense be reported. This policy will be changed to conform with the new requirement. The law expands when the principal has sufficient information to believe a serious crime has been committed, adding to "personal knowledge" and "actual notice" a broader standard of "reasonable belief." This standard had previously been in the law but was removed at the same time that it was made a misdemeanor for failure to report. This legislation also removes this criminal penalty but provides that willful failure to make a report can be the basis for demotion or dismissal. While no longer required, LEAs may want to continue to pursue understandings with their law enforcement for reporting of crimes not covered by the statute.

Gfeller-Waller Concussion Awareness Act

SL 2011-147

HB 792

Amends: 115C-12(23)

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required: Each middle and high school must have a venue specific emergency action plan to address serious injuries and acute medical conditions; provide concussion and head injury information sheet to be signed by school employees, first responders, volunteers, and students/parents; and maintain records of compliance with requirements pertaining to head injuries. *SBE action required:* Shall adopt rules that address specific requirements in the statute for use of the concussion and head injury information sheet.

Summary: This legislation sets out specific requirements for safety related to concussions and other head injuries. The Matthew A. Gfeller Sport-Related Traumatic Brain Injury Research Center at UNC-Chapel Hill, in consultation with other organizations, including the Department of Public Instruction, shall develop an athletic concussion safety training program. See other requirements above under LEA and SBE action.

Eliminate Cost of Reduced Price School Meals

SL 2011-

SB 415

Amends: S.L. 1999-235, sec. 8.26

Application/Effective date: July 1, 2011

LEA action required: use funds appropriated for school breakfasts to provide breakfasts at no costs to the extent funds are available.

SBE action required: Report by November 15, 2011 to Joint Legislative Education Oversight Committee and Joint Legislative Commission on overview of federally supported food service programs; participate in audit of the Division of School Support, Child Nutrition Services to determine if local school administrative units' participation effectively serve intent of General Assembly and comply with federal and State law and regulations.

Summary: Different versions of this bill worked its way through the legislature. The final version requires that breakfast be provided at no cost to students of all grade levels qualifying for reduced-price meals. If funds are insufficient, local programs shall charge the allowable amount. In a committee meeting discussion, some legislators made clear their concern that there may be some families fraudulently obtaining eligibility. The audit required in Section 3 of the report appears to be

targeted towards this concern. Because this program operates as a reimbursement, the Department will need to work with school districts to determine how to determine sufficiency of funds.

Impact on Student Achievement

Consolidate More at Four Program into Division of Child Development

SL 2011-145, sec. 10.7a

HB 200

Amends: 143B-168.4

Application/Effective date: July 1, 2011

LEA action required: determine participation in program, meet new requirements

SBE action required: transfer program

Summary: The budget bill transfers the More at Four program to the Department of Health and Human Services. It also reduces funding by 20% and shifts the program from a free prekindergarten program for at-risk children to a child-care subsidy model in which no more than 20% can be at-risk children. The State Board opposed this move as it affects the ability of school districts and the department to effectively combine the program with federal funds and requirements, including Head Start, Title I, and Exceptional Children. The move also takes away resources to the program for professional development for teachers as the program shifts to a regulatory model. Research has found the program to be highly effective given its alignment with K-3. Judge Manning heard evidence regarding the move on June 22 to consider whether it has an impact on an equal opportunity for a sound basic education.

High School Work Partnership

SL 2011-91

HB 769

Amends by adding new subsection: 115C-47(34a)

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required: adopt policy with provisions for students absent from school for job-shadowing activities

SBE action required: none

Summary: Local boards shall encourage high school to work partnerships and shall encourage high schools to designate a contact for businesses. The required local board policy shall address provisions for students to make up work who were absent for job-shadowing. Local boards may determine the maximum number of days for such activities.

Increase Number of Instructional Days

SL 2011-145, sec. 7.29

HB 200

Amends: 115C-84.2

Application/Effective date: July 1, 2011

LEA action required: amend school calendar

SBE action required: waiver process

Summary: The budget bill increases the instructional days from 180 to 185 and the instructional hours from 1000 to 1025. Except for year-round schools, these days must occur within the existing legal requirements of beginning no sooner than August 25 or later than June 10. These additional days are created by removing five protected teacher workdays. No additional funds are provided in the budget for transportation or other expenses incurred in holding school on these days. The legislation does provide for the State Board to grant a waiver for up to five instructional days to be used as teacher workdays if the State Board finds that it will enhance student performance to do so. The State Board set policy on this issue on June 24 and will act on any individual waiver requests at the July and August board meetings.

Efficiency

School and Teacher Paperwork Reduction Act

SL 2011-

HB 720

Amends: 115C-12, -47, -105.27, -302.1 (See also HB 200, Section 7.13

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required:

SBE action required: Adopt policies for consolidation of applications for State funding; report to Joint Legislative Education Oversight Committee by November 15 of each year on reports consolidated or eliminated for the upcoming school year

Summary: The legislation requires the State Board to (1) allow electronic submission of all reports; (2) to “consolidate all plans that affect the school community;” and (3) adopt policies for consolidation of applications for State funding. Further, if the school improvement plan adequately covers another required plan, the school administrative unit shall not be required to prepare an additional plan. New requirements for local boards are to before each school year, identify and make available to teachers software protocols to minimize repetitious data entry. The budget bill eliminates the local technology plan and the safe school plan. The school improvement plan, which was eliminated in the Senate version of HB 200 was restored in the technical corrections bill, HB 22.

The bill also eliminates pre-payment of teachers, beginning July 1, 2012.

Elimination of Reporting Requirements – Safe School Plan

SL 2011-145, sec. 7.13(w), (x), (y), (z)

HB 200

Amends: 115C-47(32(a), -105.27(b)(2), 105.46; repeals 115C-105.47

Application/Effective date: July 1, 2011

LEA action required: removes requirements

SBE action required: removes requirements

Summary: In order to reduce reporting requirements, the budget bill eliminates the school district safe school plan. The plan required school districts to identify procedures for identifying and serving students who are at-risk, provide a plan for working with law enforcement, and identify professional development related to the goals of the safe school plan. LEAs may want to consider how to continue useful parts of the plan.

Elimination of Reporting Requirements – Technology Plan

SL 2011-145, sec. 7.13(aa), (bb), (cc)

HB 200

Repeals: 115C-102.6C, -102.6D(d); amends 115C-102.7

Application/Effective date: July 1, 2011

LEA action required: removes requirements

SBE action required: removes requirements; may need alternative means for monitoring compliance with technology funds

Summary: In order to reduce reporting requirements, the budget bill eliminates the local technology plan. School districts will still need plans for applying for e-rate and must be able to provide sufficient documentation of use of technology funds.

Admissions and Placement

Multiple Birth Sibling Classroom Placement

SL 2011-

SB 726

Adds new section: 115C-366.3

Application/Effective date: July 1, 2011

LEA action required: Processes at the school level for addressing placement of multiple birth siblings

SBE action required: None

Summary: This legislation gives parents of multiple birth siblings the ability to specify whether these siblings are placed in the same or separate classrooms in their initial school placement. The principal must accept this request if made within the first 5 days before school begins or if made within 5 days if the students begin after the school year commences, with the only exception being if separate placement would require creating an additional class. After the first grading semester, the principal has authority to separate multiple birth siblings if they are causing a disruption. There is no authority for the principal to change placements based upon other factors, such as the educational appropriateness of the placement.

Safe Students Act

SL 2011-

HB 744

Amends: 115C-364(c), 130A-109

Application/Effective date: Applies beginning with the 2011-2012 school year

LEA action required: Make sure admission process provides for requiring a birth certificate or other competent and verifiable evidence of age

SBE action required:

Summary: This bill went through different versions, with earlier forms requiring the principal to seek information about citizenship status. This controversial provision was removed. In its final form, the bill changes current law, making it mandatory for the principal to require the parent to furnish a certified copy of the child's birth certificate. It does, however, permit when the certificate is not available for school authorities to accept "competent and verifiable evidence as secondary proof of age, specifically including but not limited to: (i) a certified copy of any medical record of the child's birth issued by the treating physician or the hospital in which the child was born, or (ii) a certified copy of a birth certificate issued by a church, mosque, temple, or other religious institution that maintain birth records of its members." The bill is silent on the time period for the parent to produce the birth certificate. (By contrast G.S. 130A-155 provides 30 days for immunization records).

Personnel

Modify Teacher Career Status Law

SL 2011-

SB 466

Amends: 115C-276, -288, -296, -325, -333, -333.1, -334, -335

Application/Effective date: July 1, 2011

LEA action required: May adopt policies for mandatory improvement plans; shall create list of qualified observers; must follow the detailed provisions for dismissal of probationary and tenured teachers.

SBE action required: Develop guidelines to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Annually notify all local boards with the names of teachers dismissed for any reason other than a reduction in force. If a local board hires one of these teachers, the State Board shall review and provide recommendations to the superintendent on the mandatory improvement plan that the law requires the superintendent to develop. The State Board shall initiate license revocation in prescribed circumstances. More detailed requirements are provided for selection of hearing officers and enforcing statutory requirements for performance of hearing officers.

Summary: This bill revises statutes related to the teacher dismissal process and evaluation. It was offered as consensus legislation by organizations representing school boards, school administrators, and teachers. It includes the following:

- Inadequate performance is defined as failure to meet a proficient level on any standard of the evaluation instrument – except in the case of a probationary teacher, the superintendent or designee may determine whether such performance is inadequate and with a tenured teacher, the principal may note on the evaluation instrument that the teacher is making adequate

progress given the circumstances. This might apply, for example, if new curriculum were implemented or the teacher was teaching a new subject or grade level.

- Evaluation requirements for teachers are made consistent with Race to the Top grant requirements by providing that frequency of evaluation must be consistent with state or federal requirements.
- Detailed provisions are provided for implementing a “mandatory improvement plan” when a teacher’s performance is not satisfactory. This includes the use of “qualified observers”
- The legislation also makes modifications to the hearing process, providing for a hearing officer (instead of case manager) and giving more stringent requirements for qualifications and for meeting deadlines.

[Renewal Credits for Licensure]

SL 2011-145, sec. 7.13A

HB 200

Amends: Does not affect General Statutes

Application/Effective date: July 1, 2011

LEA action required: none

SBE action required: revise board policy TCP-A-005/16 N.C.A.C. 6C.307

Summary: The budget bill cuts in half the number of renewal credits for a North Carolina Standard Professional 2 professional educator’s license – from 15 to 7.5. Current board policy will need to be revised to reflect this change. The State Board also could adjust the amount of credit given for experience.

Expanded Programs

No Cap on the Number of Charter Schools

SL 2011-164

SB 8

Amends: 115C-238.29D, 115C-105.37B

Application/Effective date: July 1, 2011

LEA action required: None

SBE action required: This legislation lifts the cap for the number of charter schools in the state. Since the state has been at the limit, the State Board will need to have processes in place for review of applications. The State Board is required to report on its application process and results to the General Assembly by May 10, 2012 and June 11, 2012. While the law does not establish parameters for an advisory council, the State Board also is required to report on the composition and use of such a council.

Summary: Senate Bill 8 was one of the most controversial education bills of this session. Starting as a bill that simply lifted the cap, it quickly turned into a 22-page bill that fundamentally altered governance and funding of charter schools. These issues, along with concerns regarding virtual schools, quality standards, and equal access, led to House and Senate versions that, while quite different from each other, did not satisfy the vast majority of Democrats and caused vehement opposition from education associations representing the interests of school districts. The State Board opposed changes in governance that could lead to a dual system of schools.

After being parked in a conference committee for almost two months, the bill emerged on June 9 as a bill just a little over two pages in length. This version received unanimous support in the Senate, and passed 108 to 5 in the House. The Governor signed the bill June 17, recognizing the long road that led to a workable bill.

This bill does the following: (1) it completely lifts the cap (i.e. no prescribed limitations per year; (2) it gives the State Board full authority in the approval of charter applicants, so long as they meet the statutory requirements; (3) it enables charter schools to grow up to 20% more than what was provided in their charter application or above their previous year’s enrollment without seeking a waiver (instead of 10% as previously provided by law); (4) it sets minimum academic performance standards that must be met and gives authority to the State Board to revoke or not renew a charter

that fails to meet these standards; and (5) requires the State Board to report back to the General Assembly on its processes and the results of the application process of 2012. The State Board will begin the process of addressing these issues at the July 7, 2011 board meeting.

Tax Credits for Children with Disabilities

SL 2011-

HB 344

Adds new section: 105-151.33, 115C-472.15 (also revises HB 200 by adding Section 7.31 on ADM adjustment

Application/Effective date: Applies to semesters for which credit is claimed beginning on or after July 1, 2011; specific other dates apply to other provisions

LEA action required: conduct reevaluations for continued eligibility

SBE action required: Manage Fund for Special Education and Related Services

Summary: Representative Stam has introduced similar legislation in prior sessions and had a broader bill this session for tuition tax credits. This legislation provides a tax credit for up to \$3000 per semester for a child with a disability whose individualized education program developed at a public school provides for special education or related services on a daily basis. For initial eligibility for the tax credit, the child must have attended at least the two preceding semesters in a public school. Beginning in 2016, this initial eligibility is reduced to one semester. The tax credit can be claimed for tuition at a private school or for special education and related service expenses for children who are home-schooled. The child also must be reevaluated by the local education agency every three years to verify that the child continues to have a disability as defined by law. The cost of the reevaluation is intended to be covered by the "Fund for Special Education and Related Services," a fund held by the State Board from a portion of the income tax collections.

Dropout Recovery Pilot Program

SL 2011-259

HB 822

Amends: Does not affect General Statutes

Application/Effective date: July 1, 2011

LEA action required: option to participate; requirements in law for program

SBE action required: Approves education partners for the pilot program, selects three local school administrative units - If a request for proposals is necessary, the process shall be completed within 60 days of the effective date of the legislation.

The SBE shall authorize participating local school administrative units to implement flexible attendance requires for students participating in the pilot program; can operate the program or it can be operated through the contracting school administrative unit.

Summary: This legislation provides for New Hanover County schools and three other school administrative units selected by the State Board to participate in a pilot program to bring back students who have dropped out of school. These students would go to an "education partner," which can be a nonprofit or for-profit entity, which would provide flexible scheduling and a blended learning environment. The student will be included in the ADM of the school district and 95% of funds transferred to the educational partner. The school administrative unit is also responsible for issuing the diploma. The law is silent on what rights the student has while participating in the program, such as in issues of student discipline or disability laws.

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